prior to entering into an agreement to direct or to guide such prospective client’s commodity interest account pursuant to the program. The trading advisor may furnish the correction by way of an amended Disclosure Document, a sticker on the Document, or other similar means.

(2) The trading advisor may not use the Disclosure Document until such correction is made.

(d)(1) The commodity trading advisor must electronically file with the National Futures Association, pursuant to the electronic filing procedures of the National Futures Association, the Disclosure Document for each trading program that it offers or that it intends to offer not less than 21 calendar days prior to the date the trading advisor first intends to deliver the Document to a prospective client in the trading program; and

(2) The commodity trading advisor must electronically file with the National Futures Association, pursuant to the electronic filing procedures of the National Futures Association, the subsequent amendments to the Disclosure Document for each trading program that it offers or that it intends to offer within 21 calendar days of the date upon which the trading advisor first knows or has reason to know of the defect requiring the amendment.

§ 4.41 Advertising by commodity pool operators, commodity trading advisors, and the principals thereof.

(a) No commodity pool operator, commodity trading advisor, or any principal thereof, may advertise in a manner which:

(1) Employs any device, scheme or artifice to defraud any participant or client or prospective participant or client;

(2) Involves any transaction, practice or course of business which operates as a fraud or deceit upon any participant or client or any prospective participant or client; or

(3) Refers to any testimonial, unless the advertisement or sales literature providing the testimonial prominently discloses:

(i) That the testimonial may not be representative of the experience of other clients;

(ii) That the testimonial is no guarantee of future performance or success; and

(iii) If, more than a nominal sum is paid, the fact that it is a paid testimonial.

(b)(1) No person may present the performance of any simulated or hypothetical commodity interest account, transaction in a commodity interest or series of transactions in a commodity interest of a commodity pool operator, commodity trading advisor, or any principal thereof, unless such performance is accompanied by one of the following:

(i) The following statement: “These results are based on simulated or hypothetical performance results that have certain inherent limitations. Unlike the results shown in an actual performance record, these results do not represent actual trading. Also, because these trades have not actually been executed, these results may have under- or over-compensated for the impact, if any, of certain market factors, such as lack of liquidity. Simulated or hypothetical trading programs in general are also subject to the fact that they are designed with the benefit of hindsight. No representation is being made that any account will or is likely to achieve profits or losses similar to these being shown.” ; or

(ii) A statement prescribed pursuant to rules promulgated by a registered futures association pursuant to section 17(j) of the Act.

(c) The provisions of this section shall apply:
Commodity Futures Trading Commission  

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(1) To any publication, distribution or broadcast of any report, letter, circular, memorandum, publication, writing, advertisement or other literature or advice, whether by electronic media or otherwise, including information provided via internet or e-mail, the texts of standardized oral presentations and of radio, television, seminar or similar mass media presentations; and

(2) Regardless of whether the commodity pool operator or commodity trading advisor is exempt from registration under the Act.

(Approved by the Office of Management and Budget under control number 3038-0005)


APPENDIX A TO PART 4— FORM CPO–PQR

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**COMMODITY FUTURES TRADING COMMISSION**

**POOL QUARTERLY REPORT FOR COMMODITY POOL OPERATORS**

**Instructions for Using the Form CPO-PQR Template**

**TEMPLATES: DO NOT SEND TO NFA**

CFTC Form CPO-PQR  
OMB No.: 3038-XXX

**READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING OR REVIEWING THE REPORTING FORM.**

This document is not a reporting form. Do not send this document to NFA. It is a template that you may use to assist in filling the electronic reporting form with the NFA at: [http://www.nfa.futures.org](http://www.nfa.futures.org).

You may fill out the template online and save and/or print it when you are finished or you can download the template and/or print it and fill it out later.

**DEFINED TERMS**

Words that are **underlined** in this form are defined terms and have the meanings contained in the Definitions of Terms section.

**GENERAL**

**Read the Instructions and Questions Carefully**

Please read the instructions and the questions in this **Form CPO-PQR** carefully.

In this **Form CPO-PQR**, "you" means the **CPO**.

**Call the CFTC with Questions**

If there is any question about whether particular information must be provided or about the manner in which particular information must be provided, contact the **CFTC** for clarification.

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